

REMARKS

Claims 1-8, 10, 12-15 and 19-23 are now pending in the application. Reexamination and reconsideration of the claims, in view of the amendments and discussion below, are respectfully requested.

In response to the objection to the drawings under 37 C.F.R. 1.121(d), a new Sheet 2/3 is submitted.

The examiner objected to the disclosure because the Summary of the Invention section and the claims are not commensurate in scope. The specification has been amended to overcome this objection.

The examiner rejected claims 1-3, 7, 8, 10 and 12-14 under 35 U.S.C. 103(a) as being unpatentable over Lloyd (EP 0 104 039) in view of Wilson III (U.S. Patent No. 5,361,779). In addition, the examiner rejected claims 1 and 3-6 as being unpatentable over Kaysersberg (WO 94/22405) in view of Wilson III.

Lloyd describes tampons with a flexible guide tube forming a sleeve around the tampon body in order to minimize contact between the vaginal wall and the surface of the tampon during insertion. This reference does not disclose or suggest the use of an absorbent pad worn outwardly of the vaginal orifice. Reference numeral 6 in Lloyd designates a piston guide (see page 27, lines 13-14) which is just within the vaginal opening (see page 27, lines 24-26). Therefore, it does not designate a "pad" and the guide is not "wearable outwardly". As noted by the examiner, Lloyd does not disclose a sheath that "is elastic in only a circumferential direction, which allows for radial expansion" as defined in claim 1.

Wilson III relates to a tubular sheath article, such as a condom (see abstract). The article comprises a sheath and a knitted retention band disposed at the proximal portion of the condom and arranged and constructed to bear compressively on a sheathed part reposed in the interior volume of the main sheath. On one hand, the sheath is preferably made of "an elastic flexible material which is readily deformable" (see column 12, lines 28-32), but there is no indication that the flexible material is elastic in only a circumferential direction.

On the other hand, the retention band is in the form of a "circumferentially extending" strip, collar or band, i.e. disposed around the sheath. Again, there is no indication that the retention band is elastic in only a circumferential direction. Instead, this reference indicates that the retention band is "radially and circumferentially extensible" (see, e.g., column 9, lines 36-40 and column 14, lines 66-68)

Kaysersberg describes a sanitary product comprising an absorbent pad 2 and an internal plug 3. The plug 3 is used to drain the menses towards the pad 2 and may be made of a hydrophilic material so that the menses is absorbed and migrates by capillarity towards the pad. An impermeable membrane 6, 66, 666 is used to place the plug into the vagina. It is pointed out that the membrane differs from the claimed sheath in that it does not join the plug to the pad but instead is only attached to the pad.

Commenting on the other references cited by the examiner in rejection of dependent claims under 35 U.S.C. 103(a), Denkinger (U.S. Patent No. 3,905,372) and Phelps (U.S. Patent No. 3,420,234) do not disclose a sanitary product comprising a sheath as defined in claim 1.

Ohba (WO 02/058611) describes interlabial products comprising an absorbent member with a convex portion that "adheres to the skin of the interlabial space, more preferably to the inside surfaces of the labia minora" (see page 8, lines 19-21). These devices do not comprise a plug worn inwardly of the vaginal orifice. "The interlabial space for purposes of the present description does not extend substantially beyond the orifice of the vagina into the vaginal interior"(see page 4, lines 21-22). In addition, this reference does not describe a

sanitary product with a sheath as defined in the application. Tampons used in combination with the interlabial devices are described at page 16, lines 15-27, of Ohba, but the tampons are not joined to the pad.

None of the cited documents discloses or suggests a sanitary product as claimed, comprising a sheath which is “elastic in only a circumferential direction, which allows for radial expansion, such that a wearer's finger can be received in the sheath to assist insertion”. The subject-matter of claim 1 and dependent claims thereon is not obvious based on the cited references.

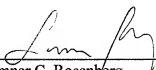
The examiner also provisionally rejected the claims on the ground of nonstatutory obviousness-type double patenting over claims 1-28 of Application No. 11/920481. Applicant respectfully submits that until such time that the Examiner finds allowable subject matter, a complete determination regarding the merits of this provisional double patenting rejection cannot be made. Furthermore, since the present application has the earlier filing date, it appears that the disclaimer, if required, should be filed in Application No. 11/920481 if and when the claims in that application are allowed. However, if the examiner holds that a disclaimer is required in the present case, Applicant will file the required disclaimer at that time.

Based on these arguments, claim 1 should be allowable. Since the remaining claims are all dependent, directly or indirectly, on claim 1, they should also be allowable. Therefore, early allowance of all pending claims is respectfully requested.

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No payment is believed to be due. However, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,



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